

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

David Lynn Harrison,

Plaintiff

v.

Nevada Department of Corrections, et al.,

Respondents

2:16-cv-01371-JAD-NJK

Order Dismissing and Closing Case

Pro se Nevada state prisoner David Lynn Harrison has submitted a “Petition for Maturity Claim/CounterClaim” and a “Maturity CounterClaim,”¹ but he has not paid the \$400 filing fee or submitted an application to proceed *in forma pauperis*. On June 20, 2016, Magistrate Judge Koppe ordered Harrison to submit a complaint and pay the filing fee or submit a completed IFP application by July 20, 2016.² This deadline has expired, and Harrison has not filed a complaint, paid the filing fee, or submitted an IFP application, nor has he requested an extension to do so.

A court may dismiss an action with prejudice based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.³ In determining whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy

¹ ECF No. 1-1, 1-2.

² ECF No. 2 at 2.

³ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdlik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1998) (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissals for lack of prosecution and failure to comply with local rules).

1 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.⁴

2 The first two factors—the public’s interest in expeditiously resolving this litigation and the
3 court’s interest in managing its docket—weigh in favor of dismissal. The third factor, risk of
4 prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises
5 from the occurrence of unreasonable delay in filing a pleading ordered by the court or prosecuting an
6 action.⁵ A court’s warning to a plaintiff that his failure to obey the court’s order will result in
7 dismissal satisfies the fifth factor’s “consideration of alternatives” requirement.⁶ The magistrate
8 judge’s June 20, 2016, order explicitly warned Harrison that his case could be dismissed if he did not
9 timely submit an IFP application or pay the filing fee and submit a complaint.⁷ And the fourth
10 factor—public policy favoring disposition of cases on their merits—is greatly outweighed by the
11 factors favoring dismissal here.

12 Conclusion

13 Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED with prejudice**
14 **based on Harrison’s failure to follow this court’s June 20, 2016, order and to prosecute this**
15 **case.**

16 The Clerk of Court is instructed to CLOSE THIS CASE.

17 Dated this 5th day of August, 2016.

18 
19 Jennifer A. Dorsey
20 United States District Judge
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25 ⁴ *Thompson*, 782 F.2d at 831.

26 ⁵ *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

27 ⁶ *Fredlik*, 963 F.2d at 1262.

28 ⁷ ECF No. 2 at 2.